

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NOS. 23-053 (ADC)
23-312 (ADC)

EMMANUEL RODRIGUEZ-RODRIGUEZ,

Defendant.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
RE: RULE 11(c)(1)(B) GUILTY PLEA HEARING

I. Procedural Background:

On February 16, 2023, defendant Emmanuel Rodriguez-Rodriguez was charged in a four-count and multi-defendant indictment in Case No. 23-053 (ADC). (Docket No. 3). On August 23, 2023, he also was charged on a multi-count and multi-defendant indictment in Case No. 23-312 (ADC) (Docket No. 3). He agreed to plead guilty to Counts One for both indictments.

Count One in Criminal No. 23-053 (ADC) specifically charges Mr. Rodriguez-Rodriguez that beginning on a date unknown, but no later than in or about 2017, up to and until the date of the return of the instant indictment, in the District of Puerto Rico, elsewhere and within the jurisdiction of this Court, did knowingly and intentionally combine, conspire, confederate and agree with each other and others, known and unknown to the Grand Jury, to possess with intent to distribute and to distribute five (5)

1 kilograms or more of a mixture or substance containing a detectable amount of cocaine,
2 a Schedule II Narcotic Drug Controlled Substance, aboard a vessel subject to the
3 jurisdiction of the United States. All in violation of 46 U.S.C. §§ 70503(a)(1) and
4 70506(b).
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6 Count One in Criminal No. 23-312 (ADC) charges that beginning on a date
7 unknown to the Grand Jury but not later than September 16, 2021, and continuing
8 through the return of the indictment, within the District of Puerto Rico and elsewhere,
9 and within the jurisdiction of this Court, did knowingly and intentionally conspired and
10 agreed with other persons known and unknown to the Grand Jury to violate 18 U.S.C. §§
11 1956 and 1957 including by:
12

13 (a) knowingly conducting and attempting to conduct financial transactions
14 involving monetary instruments affecting interstate and foreign commerce, which
15 transactions involved the proceeds of a specified unlawful activity, that is, the felonious
16 manufacture, importation, receiving, concealment, buying, selling and otherwise dealing
17 in controlled substances, knowing the property involved in the financial transactions
18 represented the proceeds of some form of unlawful activity and knowing the transactions
19 were designed in whole and in part to conceal and disguise the nature, location, source,
20 ownership, and control of the proceeds of specified unlawful activity, in violation of 18
21 U.S.C. § 1956(a)(1)(B)(i);
22

23 (b) knowingly transporting, transmitting, and transferring, and attempting to
24 transport, transmit, and transfer a monetary instrument and funds from a place in the
25 United States to and through a place outside the United States knowing the monetary
26 instrument and funds involved in the transportation, transmission, and transfer
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1 represent the proceeds of some form of unlawful activity and knowing that such
2 transportation, transmission, and transfer is designed in whole and in part to conceal
3 and disguise the nature, the location, the source, the ownership, and the control of the
4 proceed of specified unlawful activity, in violation of 18 U.S.C. § 1956(a)(2)(B)(i); and

5
6 (c) knowingly engaging and attempting to engage in a monetary transaction in
7 criminally derived property of a value greater than \$10,000 and is derived from specified
8 unlawful activity, that is, the felonious manufacture, importation, receiving,
9 concealment, buying, selling and otherwise dealing in controlled substances, in violation
10 of 18 U.S.C. § 1957.

11
12 Defendant appeared before me, assisted by the court interpreter, on October 11,
13 2024, after the Rule 11 hearing was referred to me by the Presiding District Judge. *See*
14 *United States v. Woodard*, 387 F.3d 1329 (11th Cir. 2004) (magistrate judge had
15 authority to conduct Rule 11 guilty plea hearing with consent of defendant). He was
16 advised of the purpose of the hearing and placed under oath with instructions that his
17 answers must be truthful lest he subject himself to possible charges of perjury or making
18 a false statement.
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20 **II. Consent to Proceed Before a Magistrate Judge:**

21 Defendant was provided with a Waiver of Right to Trial by Jury form, which he
22 signed.¹ He was advised of his right to hold all proceedings, including the change of plea
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27 ¹ The form entitled Consent to Proceed Before a United States Magistrate Judge in a Felony Case for
28 Pleading Guilty (Fed. R. Crim. P. 11) and Waiver of Jury Trial, signed and consented by both parties is
made part of the record.

1 hearing, before a district court judge. He received an explanation of the differences
2 between the scope of jurisdiction and functions of a district judge and a magistrate judge.
3 He was informed that if he elected to proceed before me, a magistrate judge, that I would
4 conduct the hearing and prepare a report and recommendation, subject to review and
5 approval of the District Judge. The defendant then voluntarily consented to proceed
6 before me.
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8 **III. Proceedings Under Rule 11 of the Federal Rules of Criminal** 9 **Procedure:**

10 Rule 11 of the Federal Rules of Criminal Procedure governs the acceptance of
11 guilty pleas to federal criminal violations. Pursuant to Rule 11, in order for a plea of guilty
12 to constitute a valid waiver of the defendant's right to trial, the guilty plea must be
13 knowing and voluntary. *United States v. Hernandez-Wilson*, 186 F.3d 1, 5 (1st Cir. 1999).
14 "Rule 11 was intended to ensure that a defendant who pleads guilty does so with an
15 'understanding of the nature of the charge and consequences of his plea.'" *United States*
16 *v. Cotal-Crespo*, 47 F.3d 1, 4 (1st Cir. 1995) (quoting *McCarthy v. United States*, 394 U.S.
17 459, 467 (1969)). There are three core concerns in a Rule 11 proceeding: 1) absence of
18 coercion; 2) understanding of the charges; and 3) knowledge of the consequences of the
19 guilty plea. *Cotal-Crespo*, 47 F.3d at 4 (citing *United States v. Allard*, 926 F.2d 1237, 1244
20 (1st Cir. 1991)).
21

22 **A. Competence to Enter a Guilty Plea**

23 I questioned the defendant about his age, education, employment, history of any
24 treatment for mental illness or addiction, use of any medication, drugs, or alcohol, and
25 his understanding of the purpose of the hearing, all in order to ascertain his capacity to
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1 understand, answer and comprehend the change of plea colloquy. I confirmed that the
2 defendant received the indictment and fully discussed the charges with his attorney and
3 was satisfied with the advice and representation he received. In addition, I further
4 inquired whether defendant's counsel or counsel for the government had any doubt as to
5 his competency to plead, receiving answers from both that the defendant was competent
6 to enter a plea. After considering the defendant's responses, and observing his demeanor,
7 a finding was made that Mr. Rodriguez-Rodriguez was competent to plead and fully
8 aware of the purpose of the hearing.
9

10 **B. Maximum Penalties**

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12 Upon questioning, the defendant expressed his understanding of the maximum
13 and minimum penalties prescribed by statute for the offenses to which he was pleading
14 guilty. As to Count One in Criminal No. 23-053(ADC), and as charged, he was exposed
15 to a term of imprisonment which shall not be less than ten (10) years and up to life, a fine
16 not to exceed ten million dollars (\$10,000,000.00), and a supervised release term of at
17 least five (5) years in addition to any term of incarceration.
18

19 As to Count One in Criminal No. 23-312, defendant understood that he was
20 exposed to a term of imprisonment of not more than twenty (20) years and up to life, a
21 fine not to exceed two hundred and five hundred thousand dollars (\$500,000.00) or
22 twice the value of the property involved in the transaction, whichever is greater, pursuant
23 to is U.S.C. § 1956(a)(1), and a supervised release term of not more than three (3) years,
24 pursuant to is U.S.C. § 3583(b)(2), in addition to any term of incarceration. There is also
25 a civil penalty of not more than the greater of the value of the property, funds, or
26 monetary instruments involved in the transaction; or ten thousand dollars (\$10,000.00).
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1 The defendant also understood that a Special Monetary Assessment of \$100.00
2 would be imposed as to each count of conviction, to be deposited in the Crime Victim
3 Fund, pursuant to Title 18, United States Code, Section 3013(a). The court explained the
4 nature of supervised release and the consequences of revocation. The defendant
5 indicated that he understood the maximum and minimum penalties for the offenses to
6 which he was pleading guilty and the potential consequences of said guilty plea.
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8 **C. Plea Agreement**

9 Mr. Rodriguez-Rodriguez was shown his plea agreement, and the plea agreement
10 supplement, which are part of the record, and identified his initials and signatures. He
11 confirmed that he had the opportunity to read and discuss the plea agreement with his
12 attorney before he signed it, that it represented the entirety of his understanding with
13 the government, that he understood its terms, and that no one had made any other or
14 different promises or assurances to induce him to plead guilty.
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16 The defendant was then admonished, pursuant to Fed. R. Crim. P. 11(c)(1)(B), and
17 expressed his understanding that the terms of the plea agreement are merely
18 recommendations to the court, and that the district judge who will preside over the
19 sentencing hearing can reject the recommendation without permitting the defendant to
20 withdraw his guilty plea, and impose a sentence that is more severe than the defendant
21 might anticipate. The defendant was specifically informed that the court, after
22 considering the applicable Sentencing Guidelines, could impose a sentence different
23 from any estimate in the plea agreement or provided by his attorney, and that the court
24 had the authority to impose a sentence that is more severe or less severe than the
25 sentence called for by the Sentencing Guidelines. The defendant was advised, and
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1 understood, that the Sentencing Guidelines are no longer mandatory and are thus
2 considered advisory, and that during sentencing the court will consider the sentencing
3 criteria found at Title 18, United States Code, Section 3553(a).

4 The defendant was advised that under some circumstances he or the government
5 may have the right to appeal the sentence the court imposes, but that pursuant to the
6 plea agreement the defendant will waive his right to appeal both his sentence and his
7 conviction if the court adopts the plea agreement and sentences him according to its
8 terms, conditions and recommendations.
9

10 **D. Waiver of Constitutional Rights**

11 Mr. Rodriguez-Rodriguez was specifically advised that he has the right to persist
12 in a plea of not guilty, and if he does so persist that he has the right to a speedy and public
13 trial by jury, or trial before a judge sitting without a jury if the court and the government
14 so agree; that at trial he would be presumed innocent and the government would have to
15 prove his guilt beyond a reasonable doubt; that he would have the right to the assistance
16 of counsel for his defense, and if he could not afford an attorney the court would appoint
17 one to represent him throughout all stages of the proceedings; that at trial he would have
18 the right to hear and cross examine the government's witnesses, the right to decline to
19 testify unless he voluntarily elected to do so, and the right to the issuance of subpoenas
20 or compulsory process to compel the attendance of witnesses to testify. He was further
21 informed that if he decided not to testify or put on evidence at trial, the failure to do so
22 could not be used against him, and that at trial the jury must return a unanimous verdict
23 before he could be found guilty or not guilty.
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1 The defendant specifically acknowledged understanding these rights and
2 understanding that by entering a plea of guilty there would be no trial and he will be
3 waiving or giving up the rights I explained.

4 The defendant was informed that parole has been abolished and that any sentence
5 of imprisonment must be served, and that his guilty plea may result in loss of important
6 civil rights, such as the right to vote, to hold public office, to serve on a jury, and to
7 possess a firearm. The defendant confirmed that he understood these consequences of
8 the guilty plea.
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10 **E. Factual Basis for the Guilty Plea**

11 Defendant was read in open court Count One for both indictments and provided
12 an explanation of the elements of the offense. The meaning of terms used in the
13 indictment was explained. Further, upon questioning, the defendant admitted to facts
14 constituting all of the elements of the offense charged in Count One and that the evidence
15 the government had available to establish, in the event defendant elected to go to trial,
16 the defendant's guilt beyond a reasonable doubt.
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18 **F. Voluntariness**

19 The defendant indicated that he was not being forced to plead guilty but was
20 entering such a plea freely and voluntarily because in fact he is guilty, and that no one
21 had threatened him or offered a thing of value in exchange for his plea. He acknowledged
22 that no one had made any different or other promises in exchange for his guilty plea,
23 other than the recommendations set forth in the plea agreement. Throughout the hearing
24 the defendant was able to consult with his attorney.
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